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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/593,889	09/23/2006	Seiji Kashioka		5759
7590 10/27/2009				
Seiji Kashioka 19743 Vista Hermosa Dr Walnut, CA 91789				
EXAMINER MILLIKIN, ANDREW R				
ART UNIT 2832		PAPER NUMBER		
MAIL DATE 10/27/2009		DELIVERY MODE PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/593,889

**Applicant(s)**

KASHIOKA, SEIJI

**Examiner**

ANDREW R. MILLIKIN

**Art Unit**

2832

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 07 August 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-7 and 11 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7 and 11 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/CDC)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_
- Paper No(s)/Mail Date \_\_\_\_\_

## **DETAILED ACTION**

### ***Claim Objections***

1. Claim 7 is objected to under 37 CFR 1.75(c) as being in improper form because a multiple dependent claim should refer to other claims in the alternative only. See MPEP § 608.01(n). Accordingly, the claim has not been further treated on the merits.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1-7 & 11 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claims 1 & 4, it is unclear why a second means for getting next beat timing by measuring period of said duration time from beat timing of current beat one by one is required after a first means is used for reading out data about each of all individual beat duration time stored in memory or media. It is further unclear what is meant by "period of said duration," since it appears to possibly have the same meaning as "said duration."
4. The claims are generally narrative and indefinite, failing to conform with current U.S. practice. They appear to be a literal translation into English from a foreign document and are replete with grammatical and idiomatic errors. For example, in claim 1, "reading out data about each of all individual beat duration time" seems that it should

read "reading out data about each of all individual beat duration times"; in claims 1 & 4, "one by one:" seems that it should read "one by one;"; in claim 4, "program to indicates" seems that it should read "program to indicate". These are bare minimum corrections, since it seems that the claims could be simplified and clarified further, though such would not be absolutely necessary in order to conform to grammatical and idiomatic English standards. Applicant should not only correct these stated errors but should make an attempt to clarify and simplify the claims while simultaneously making sure the claims conform to grammatical and idiomatic English standards.

#### ***Response to Arguments***

5. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

#### ***Allowable Subject Matter***

6. It appears that allowable subject matter may be present in the claims if they are rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action. However, until the claims are corrected and clarified accordingly, a proper determination of patentability cannot be made.

#### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ANDREW R. MILLIKIN whose telephone number is

(571)270-1265. The examiner can normally be reached on M-R 7:30-5 and 7:30-4  
Alternating Fridays (EST).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Elvin Enad can be reached on 571-272-1990. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Andrew R. Millikin/  
Examiner, Art Unit 2832

/Jeffrey Donels/  
Primary Examiner, Art Unit 2832